IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 7044 of 2007()

CRIME NO.23/07 OF THE SREEKANDAPURAM POLICE STATION

PETITIONER

K.P.NAJEEB, S/O SULAIMAN,
PRIVATE SERVICE, POLLAYAD, CHUZHALI AMSOM DESOM,
TALIPARAMBA TALUK AND DISTRICT.

BY ADV. SRI.V.P.MOHAMMED NIYAZ

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE STATION HOUSE OFFICER,
SREEKANDAPURAM POLICE STATION,
KANNUR DISTRICT.

BY P.P. SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7044 OF 2007

Dated this the 14th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.498A of the IPC. His wife is the de facto complainant. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal proceedings has been registered. The petitioner was employed abroad. As he was not available in India, he has not been arrested after taking cognizance. The learned Magistrate has issued process against the petitioner. A warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to appear before the learned Magistrate and seek regular bail.

But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge